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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,062	01/28/2004	Phillip Robert Kavanagh	97674.00005	2286

7590 03/09/2005

McCarter & English, LLP  
Four Stamford Plaza  
107 Elm Street  
Stamford, CT 06460

EXAMINER
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SUKMAN, GABRIEL S

ART UNIT	PAPER NUMBER
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3641

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/766,062

Applicant(s)

KAVANAGH, PHILLIP ROBERT

Examiner

Gabriel S. Sukman

Art Unit

3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S.

Patent No. 5,584,449 to Kavanagh.

Claim 1 of the instant application is essentially identical to that of the '449 patent except for the first control means including "conjoined contiguous venting control means which permit the outer perimeter at least of the operculum to be pulled away from the perimeter edge of the aperture to variably open" the aperture. But the '449 patent does indeed teach this limitation since pulling harder [than would be required to merely close the aperture] on the first control means (21) serves to permit the outer perimeter to be pulled away from the perimeter edge of the aperture, thus venting the aperture, as can be seen in col. 7, lines 20-26 of the '449 patent.

Claim 2 is anticipated by the '449 patent as well since the only added limitation in claim 2 that is not present in claim 1 is that the thermal aircraft is a hot air balloon and since the '449 patent teaches a venting system for a hot air balloon. Also, claim 2 of the instant application is essentially identical to claim 2 of the '449 patent with the exception of the added limitation as in claim 1, discussed above.

Claim 3 is anticipated by the second control means disclosed by the '449 patent.

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Claim 4 is clearly anticipated by the '449 patent as can be seen by reference numbers 27 and 28 in figures 2-4.

Claim 5 is taught by the embodiment of the '449 patent shown in figures 5-7. The line (35) is connected to the operculum at a plurality of arcuately spaced locations (col. 9, lines 10-25) which are on an inner periphery of the underside of the operculum, radially spaced outwardly from the center of the vent panel.

Claim 6 is clearly taught by the embodiment of the '449 patent shown in figures 5-7 since the second control means (lines 35) are also connected to the outer perimeter of the operculum.

Claim 7 is anticipated by the '449 patent as per the discussion regarding claim 1, since the invention is venting means.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 5,967,459 to Hayashi

U.S. Patent No. 5,653,405 to Cameron

U.S. Patent No. 5,149,015 to Davis

U.S. Patent No. 4,836,471 to Piccard

U.S. Patent No. 4,651,956 to Winker et al.

European Patent No. 0 401 891 A1 to Regipa et al.

UK Patent Application GB 2 260 956 A to Cameron

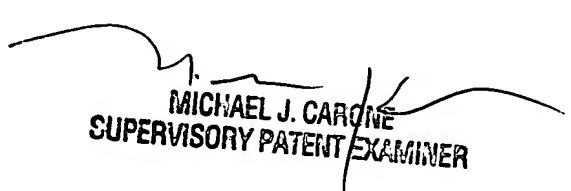
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gabriel S. Sukman whose telephone number is (703) 308-8508. The examiner can normally be reached on M-F, 8:30-6:00, every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Carone can be reached on (703) 306-4198. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gss

  
MICHAEL J. CARONE  
SUPERVISORY PATENT EXAMINER